ACCOUNTANCY

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CONTENTS

PROFESSIONAL NOTES

War Risks Insurance

The promised Bill for the insurance against war risks of property other than stocks of commodities has not yet appeared. No doubt this legislation will be of considerable complexity, and many technical problems have had to be faced, but it is to be hoped that when the Chancellor says the Bill will appear "shortly," he means just that. It is extremely important that the position in regard to war damage to property should be speedily clarified. We know already that the plan is to be compulsory for buildings and plant and voluntary for householders' furniture. Apparently the State is to make some sort of subvention "in certain eventualities." But on very important points no information has yet been vouchsafed. Thus, the extent, if any, to which mortgagees will be required to contribute towards the insurance fund is unknown. Whether the premium rates are to be high enough to meet the indemnities after taking account of possible State grants, or whether there will be introduced some such scheme as that outlined in our October issue, whereby Crown charges on property after the war provide part of the necessary funds, we do not know. There will probably be some provision made for part compensation during the war. But it is clear that the total of war-time payments should only be a small part of the total indemnities, since the materials for rebuilding can be spared only in the most urgent cases, and the greater the accumulated fund of premiums, the greater the amount withdrawn from civilian consumption, which must be considerably restricted in the interests of war production.

Meanwhile, on the side of commodities insurance it is announced that premiums received during the first year of war amounted to some £40 million; the total of claims is naturally enough not open to publication. The rate is raised to 7s. 6d. per month, as from December 3, having been 5s. per month since last December. It was previously 10s. per month. Those who objected to the high premium rate at that time have come to realise how useful the large accumulation of funds during the quiescent months of the war has proved to be. The scheme is admittedly not running as smoothly as one would hope, so far as concerns the settlement of claims. But the delay which occurs in some cases is largely due to policyholders not making their claims in the proper form or not informing their insurance company (or Lloyds) quickly enough after air raid damage has been sustained. If records are damaged or destroyed the task of the limited number of available skilled assessors is made doubly difficult. It is stressed by the Board of Trade that policyholders are bound to take all possible steps to prevent further damage; and reasonable expenses of removing goods to safety will be allowed, without prior assessment. In the case of foodstuffs, where salvage work must be put in hand with the greatest urgency, divisional food offices and food executive officers have been empowered to co-operate in this work with the policyholder or the assessor.

Further Limitation of Supplies

The Limitation of Supplies Order of last June, which will have caused much work for many practising accountants, restricted sales of the scheduled goods to 66⅔ per cent. of sales in the base period. This percentage quota applied for the period June 6 to November 30 and the base period was June 1 to November 30, 1939. For the six months beginning December 1, 1940, the percentage is lowered, with one exception, to 50 per cent., 33⅓ per cent., or 25 per cent., according to the commodity concerned, based on December 1, 1939, to May 31, 1940. The exception, mattresses (other than spring mattresses), is a sign of the times, though even in this case a quota of 66⅔ per cent. is maintained. There are not many additions to the schedule. Cameras, musical instruments, sports and fancy goods, toilet preparations, household goods and appliances such as domestic electrical appliances and cash registers are the main items in the 25 per cent. category. Since prices of most of the scheduled goods are on the up-grade, the limitation of supplies, which is reckoned by value and not by quantity, is greater than the percentages themselves indicate.

The Late Viscount Craigavon

The regretted death of The Right Hon. Viscount Craigavon, Prime Minister of Northern Ireland, removes from the public life of the United Kingdom, and particularly of Northern Ireland, a sturdy figure of unwavering conviction and great character. To his part in high politics during the last twenty years was added a tenacious and earnest purpose in promoting the welfare of Northern Ireland no less in its business than in its pleasurable aspects. It was largely through a spontaneous and cordial invitation given to the then President of the Society—Mr. Walter Holman—that a Conference of Incorporated Accountants was held in Belfast in 1937. The Society had the honour of the presence of the Viscount and Viscountess Craigavon at the principal function. Those who accepted the invitation to the garden party at Stormont will recall the informal and friendly way in which he and the Viscountess Craigavon moved among their guests, which impressed the visit to Northern Ireland with a personal as well as an official character. We extend our sympathy to The Viscountess Craigavon and to the people of Northern Ireland in the loss which they have suffered. His successor in the office of Prime Minister of Northern Ireland is The Right Hon. John M. Andrews, who has been a member of the Northern Ireland Cabinet since the formation of the Ulster Government. As Minister of Finance he has been a guest of the Society on more than one occasion in Belfast, and we offer to Mr. Andrews our good wishes in the onerous responsibilities which fall to him.

A Year of Savings

We have always adopted the view in this journal that it is dangerous to place so much reliance upon voluntary savings that the need for greater obligatory sacrifice is thrown out of perspective. That view is, however, consistent with the greatest admiration for the work of the National Savings Committee and its leader, Sir Robert Kindersley. The Committee set as their goal the attainment of £475 million of national savings in the first year of the campaign, ending November 21. The figure was in fact exceeded slightly, £475.5 million being obtained during the year.

Defence Bonds Held by Trustees

New regulations issued by the Treasury allow the limit of £1,000 for an individual's holding of 3 per cent. Defence Bonds to be exceeded in certain conditions by trustees. In calculating the amount of the holding for purposes of the limitation, which otherwise is of general application, it is now laid down that purchases made in the capacity of trustee on behalf of a trust are to be excluded, provided the purchaser has no interest in the trust other than as trustee. Up to £1,000 of Defence Bonds may be held by a trustee on behalf of each trust fund. A beneficiary whose interest in a trust is either a life interest or a reversion dependent upon the determination of a prior life interest may hold the maximum of the bonds regardless of any holding by the trust.

British Property in France

The Board of Trade has established a register of British property in Germany and Italy (or their possessions). The aim is to provide a record of claims to be held until it is possible to make arrangements for restitution. A similar register is now being compiled by the British Chamber of Commerce (Paris) in respect of real and personal property situated in France and certain French possessions, belonging to British persons resident in, or companies registered in, the United Kingdom. Registration by the Board of Trade or the British Chamber of Commerce does not imply recognition of a claim or guarantee that it will receive the Government's support. The necessary forms for the registration of property in occupied or unoccupied France, Corsica, Algeria, French Morocco, French Somaliland, Monaco and Tunisia can be obtained from the Claims Committee, British Chamber of Commerce (Paris), 22, Old Queen Street, London, S.W.1.

Addition to Bankruptcy Rules

A new rule, number 108a, is added to the Bankruptcy Rules, 1915. It reads as follows: "Where a committee of inspection gives permission to a trustee in pursuance of Section 56 of the Act to employ a solicitor to take any proceedings or do any business, the committee shall in each instance specify a maximum limit to the amount of costs to be incurred in such proceedings or business respectively and the trustee shall inform the solicitor of such limit before the employment begins: Provided that the committee may, upon an application made by the trustee either before or within one month after the limit has been reached, increase the limit of costs to be incurred."

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THE INTERPRETATION OF ACCOUNTS

During a war such as this it is inevitable that professional journals, as well as other periodicals, should be concerned largely with problems arising out of war conditions. Professional evolution, however, continues during hostilities, perhaps at a greater pace than in normal times. It is necessary, therefore, from time to time to forget the immediate stress of battle and devote our attention to general accountancy topics. The recent perusal of some publications from America has turned our thoughts for a while to the interpretation of accounts in this country and on the other side of the Atlantic. It is a subject which would have received special attention at the hands of the Society's Research Committee if the activities of that small but earnest body of men had not been temporarily suspended. Much has been written in this country on interpretation and more in America, but it is doubtful if the contributions have received from the profession at large that amount of attention which they deserved. Some business men hold and express the opinion that the professional accountant has not devoted sufficient attention to the subject. It may be that the accountant, acting as auditor, is not the right person to interpret statements for which he is partly or wholly responsible. It has been suggested that the Consulting Accountant, as a specialist, is the right person to review the results of those who have been engaged in the compilation and auditing of the accounts. Be that as it may, the work is essentially one for the trained accountant and there is little doubt that in the process of time interpretation will be recognised as being at least as important as verification.

The interpretation of accounts and of statements means, broadly, the translation and amplification of the results as exhibited by figures in such a way as to give the maximum assistance for the further continuation and expansion of a particular concern or group of concerns; it involves comparisons and the use of ratios in the discovery of trends in any direction; it necessitates an intimate knowledge of the business and the consideration of normal and abnormal factors; it recognises that accounts and statements are a means to an end and not an end in themselves. A financial statement of any character should have a definite meaning. Figures alone are sometimes of little value to the interested parties and may be misleading without the interpretative factors. The growth of commercial units has called for a new technique in the compilation of accounts and this, in turn, has increased the need and the demand for intellectual interpretation. We cannot in the space of a short article enter upon a discussion of the respective merits of American and English forms of account, but it must be admitted that in some ways the American forms lend themselves more readily to the compilation of comparisons. The ratio of net worth to total equities, for example, is not so easily described in our own terminology, although it will quickly convey a definite meaning to our readers. The significance of ratios in the interpretation of financial reports rests on the assumption that relationships may be more important than individual amounts. In concerns of any magnitude the equity ratio is of first importance. This ratio expresses the relation of creditor interests and proprietary interests to the total resources of the enterprise and shows what part of the total resources is represented by the capital of the members. A second type of relationship is the current ratio which is found by dividing the amount of current assets by the amount of short-term liabilities. These ratios can, in the majority of cases, be considered as a test of long-term solvency in the first case and of immediate solvency in the second. These two illustrations serve to show the importance of ratios whether expressed in the form of percentages or in any other way. The same principle can be adopted in relation to many other aspects of the balance sheet as well as to costs, earnings, profits and dividends. It is hardly necessary to point out to professional accountants that percentages alone have very little meaning unless they are used with the basic figures on which they are compiled. An important factor in all interpretations is the fluctuating value of the currency in which the results are expressed. A pound sterling or a dollar is not a stable unit and this constitutes a real difficulty in arriving at interpretations based on the results of a series of years, a difficulty which can, however, be overcome by use of average exchange rates. The inter-relationships between the various accounting data lie at the root of interpretation and it is the task of the accountant to discover and measure those most significant for the executive.

It may rightly be said that the interpretation of accounts is an integral part of the accounting process. The method of interpretation comprises the classification and summarisation of accounting data, not necessarily confined to the business under review but extending to reliable standards which may be compiled from many other sources. So attractive is the subject that it is necessary to remember that the accountant's expansion of data must be confined to the limits of usefulness to the interested parties.

Landlord and Tenant in War-Time

(CONTRIBUTED)

The Landlord and Tenant (War Damage) Act, 1939, applies to all property, no matter of what description, including land belonging to the Crown, but it does not hold in Scotland. Northern Ireland is given powers to make similar laws.

Obligations to Repair

No one is responsible for repairing damage caused as a result of enemy action until certain machinery under the Act is put into operation and it is provided that any obligations to repair which may be contained in a tenancy, or, in fact, any disposition of property, do not extend to war damage.

So far as concerns any obligation to repair the property, apart from war damage, the covenant is modified where it is impracticable, or only practicable at a cost which is unreasonable, to carry out the repairs, or where it would be of no substantial advantage to the person who would have been entitled to the benefit of the repairing covenant. In such cases the obligation to repair is suspended until the conditions stated no longer hold. Contracting out of these provisions is not possible.

All rights and remedies by way of damages, forfeiture, re-entry, sale, foreclosure or otherwise which might arise as a result of the non-fulfilment of an obligation to repair are modified, suspended or extinguished, according to the circumstances of the case, and guarantors come within this protection. Statutory obligations to repair, it should be noted, come within the provisions modifying the obligation to repair.

If the tenant is liable for repairs, certain duties are cast upon him which he must fulfil before he can take advantage of the provisions modifying his obligation and his tenancy will be deemed to include a covenant imposing these duties, which are as follows :—

(1) As soon as practicable after the damage has become known to him, he must serve a notice on the landlord stating that the damage has occurred, and describing the general nature of the damage, so far as it is known to him.

(2) He must permit the landlord, or any person authorised by him, to enter upon the property, at a reasonable time, for the purpose of ascertaining the extent of the damage and making it good, either temporarily or permanently, where it is incumbent upon him to do so.

Similar duties are imposed upon a mortgagor. It should be noted, however, that a mortgagee cannot, without leave of the Court, enforce any right or remedy arising out of a breach of the duty of the mortgagor to notify the damage.

In the case of settled land, which is deemed to include land vested in trustees for charitable, ecclesiastical or public trusts or purposes, or land held on trust for sale, or land belonging to a university or college to which the Universities and College Estates Act, 1925, applies, the cost of making good war damage can be defrayed out of capital monies and shall be deemed to be an improvement authorised by the Settled Land Act, 1925, or the Universities and College Estates Act, 1925, as the case may be.

Disclaiming and Retaining Leases

Five different kinds of notices are provided for :—

(1) Notice to Disclaim by the Tenant.
(2) Notice to Avoid Disclaimer by the Landlord.
(3) Notice of Retention by the Tenant.
(4) Notice to Elect by the Landlord.
(5) Counter Notice by the Tenant.

Notice of Disclaimer.—Where a property has been rendered unfit by war damage, the tenant is entitled to serve on the landlord a notice to disclaim the tenancy, whether the tenancy was created before or after the commencement of the Act. The tenancy and all sub-tenancies derived out of it are then deemed to have been surrendered. The sub-tenancy is not surrendered, however, if the sub-tenant is entitled to the actual occupation of the property and no notice of disclaimer has been served by him.

Where the landlord receives a notice of disclaimer any one of the following three courses is open to him :—

(*a*) He can accept it.

(*b*) He can serve a notice to avoid disclaimer.

(*c*) He can apply to the County Court (the appropriate Court under the Act) within one month of receipt of the notice of disclaimer for the Court to determine whether the property is unfit by reason of the war damage.

If the Court decides that the premises are not unfit, the notice of disclaimer is null and void, and the tenancy continues, although the position appears to be that no one need repair the damage.

On the other hand, if the Court decides that the premises are unfit, the time limit for the serving of a notice to avoid disclaimer can be extended by the Court.

From the date of the notice of disclaimer and until the premises are rendered fit, no rent is payable by the tenant under the lease, unless parts of the premises are capable of use, in which event some adjustment of the rent must be made. In the event of any dispute as to this adjustment, application can be made to the Court for a decision.

When a tenant serves a notice of disclaimer he must give his landlord the following particulars, provided they are known to him, or can reasonably be ascertained by him :—

(*a*) The term of and the rent reserved by any immediate under-tenancy of the premises comprised in his tenancy.

(*b*) The name and address of the person to whom the under-tenancy was granted and of the person, if any, to whom it may have been assigned.

(*c*) If there is a mortgage, the name and address of the mortgagee.

If the tenant who serves a notice to disclaim has a sub-tenant, he must serve upon him, whether he be a direct sub-tenant, assignee, mortgagee or lessee, a notice stating that he has served a notice of dis-

claimer, giving the name and address of the landlord on whom it was served and making it clear what lease he has disclaimed. This process of notification goes on similarly right down the scale, until every person having any interest in the property has been notified as to the service of a notice of disclaimer.

If any person fails to give such a notice he will be liable to make good any damage which has been suffered by any person as a result of his failure to do so.

Notice to Avoid Disclaimer.—If the landlord desires to preserve the tenancy after he has been served with a notice of disclaimer, he must serve the tenant with a notice to avoid disclaimer within one month of the service of the notice of disclaimer. The notice of disclaimer will then be of no effect, but the tenancy is deemed to be modified as follows :—

(*a*) It will be deemed to contain a covenant on the part of the landlord to carry out such repairs as are necessary to render the premises fit as soon as is reasonably practicable, but this covenant does not extend to guarantors.

(*b*) No rent shall be payable by the tenant from the date of the service of the notice of disclaimer to the date when the premises are rendered fit, but the landlord can apply to the Court at any time before the premises have been rendered fit to declare that any part of the premises is capable of beneficial occupation and the Court has powers to direct that the tenant shall pay such rent at such times and in respect of such period as the Court may fix. The amount of rent, however, must not exceed the proper proportion of the annual value commensurate with the amount of beneficial occupation of any part of the building that the tenant can use, nor must it in any case exceed the full annual rent payable by the tenant.

In the event of further damage occurring to the property after a notice to avoid disclaimer has been served, the landlord can apply to the Court for leave to withdraw the notice and the Court should grant such leave, if it is satisfied that the liability in respect of repairs is materially increased.

As from the date when the notice is withdrawn, any notice of disclaimer in existence is deemed to be of no effect, the tenancy is resuscitated and the tenant becomes liable for rent. Obviously, therefore, the tenant will then serve another notice of disclaimer.

Notice of Retention.—Instead of serving a notice of disclaimer, the tenant can serve a notice of retention, and this course is often followed where the damage is slight, and especially in cases where the tenancy is on advantageous terms so far as the tenant is concerned.

If the tenant serves such a notice, he makes himself liable to carry out such repairs as are necessary to render the premises fit for use and he must carry out the work as soon as is reasonably practicable, but, here again, this liability for repairs does not bind any guarantor.

From the time the tenant serves his notice of retention, he is not liable for rent until the property is rendered fit, but the landlord can make an application to the Court, if he thinks there has been unreasonable delay on the part of the tenant in carrying out the repairs. The Court may then direct that the tenant shall pay such rent for the premises at such times and in respect of such period as it may fix, but the rent is not to exceed the rent reserved in the tenancy.

A similar application can be made by the landlord to the Court to fix some rent for partial user, as he can where a notice to avoid disclaimer is served, and similar rules apply.

It should be observed that rent is deemed to include any sums payable by the tenant for service, lighting, heating, part use of furniture or otherwise, and this definition applies also in the case of applications to the Court in connection with notices to avoid disclaimer.

Notice to Elect.—If the tenant serves neither a notice of disclaimer nor a notice of retention, the landlord can serve his tenant with a notice to elect, requiring the tenant to serve on him either a notice of disclaimer or a notice of retention within one month. If he serves no notice, he will be deemed to have served a notice of retention.

If there is a sub-tenant, the tenant can serve a similar notice to elect on his sub-tenant, but he must inform his landlord that he has served such a notice and he must serve that notice within fourteen days of the time he was himself served with the notice to elect by his landlord. If the sub-tenant does not comply with the notice within a month he also will be deemed to have served a notice of retention.

As the sub-tenant has a month within which to comply with the notice and the tenant himself only has a month, the sub-tenant's month will end after the tenant's month. So that the tenant shall not be prejudiced, it is provided that if the tenant has less than seven days left of his own month, after being served with a notice of disclaimer or a notice of retention by the sub-tenant, he has an extension of seven days, and he receives a similar extension if the sub-tenant does not reply. The effect of this is that the tenant will always have seven days in which to act.

The Court has power to extend or abridge any of these periods on the application of any person affected. Application to the Court can be made at any time, but where it is made after the expiration of the period the Court must be satisfied before extending that period that the interests of the persons affected by the extension, other than the applicant, will be properly protected.

Counter Notice.—After the receipt of a notice to elect, the tenant can, within one month, serve the landlord with a counter notice, claiming that the notice to elect is of no effect, on the grounds that the premises are not unfit as a result of war damage. In serving a counter notice the tenant must draw the landlord's attention to the fact that the notice to elect will be of no effect, unless the landlord makes an application to the Court within fourteen days to determine if the building in question was or was not unfit at the time when the notice to elect was served.

If the Court decides that the premises were unfit it may extend the period within which the notice to elect is to be complied with.

Ground Leases.—There are special provisions in respect of a ground lease, defined as being a lease at a rent not substantially exceeding the rent which would have been paid by the tenant at the commencement of the term of the lease for the land, excluding the buildings, for the particular term.

In these cases, the landlord is not entitled to serve a notice to elect, nor can the lessee serve a notice of retention, and he can only serve a notice of disclaimer by leave of the Court.

If the lessee wants to disclaim his lease and applies to the Court, the Court can give him leave to disclaim, if it is satisfied, having regard to the extent of the war damage suffered, and taking into account the length of the lease still to run and the relation of the rent paid by the lessee to the rental value, that it would be equitable to allow the tenant to disclaim, but the Court can make such conditions as to the payment of compensation, etc., as it thinks fit to impose.

The Court, however, must have regard to any offers which the landlord may have made for an extension of the lease or for an alteration in the rent or, indeed, for any other modification of the terms of the lease.

Some students of the Act say that the Court can only award compensation to the landlord, but it is not clear whether the Act means this. It may be in the interests of the lessee to disclaim the lease, though he ought to be the person to whom compensation is awarded. This is one of a number of points which will, no doubt, be elucidated by the Courts in due course.

It should be noted that a leaseholder need only prove war damage ; he does not have to prove that the property is " unfit."

Multiple Leases.—A multiple lease is defined as meaning a lease of buildings which are used or adapted for use as two or more separate tenements. The most common examples are blocks of flats and office buildings.

Notices of disclaimer and notices to elect can be served by the tenant or by the landlord, but either of them, or any person having an interest in the lease, or in the reversion after the determination of the lease, can apply to the Court within one month to determine whether the tenant shall be allowed to disclaim his lease, either wholly or in respect of one or more of the separate tenements.

The Court may allow the lease to be disclaimed if it is satisfied that it is equitable to do so, having regard to the extent of the war damage suffered by the buildings as a whole, and all the other circumstances of the case, but it must take into account any offers made by the landlord for an extension of the lease, or for an alteration of the rent, or for any other modification of the terms of the lease. If a disclaimer is allowed, the Court may extend the time within which a notice to avoid disclaimer can be served. If a notice to elect has been served and the Court allows a disclaimer, the time for serving the notice of disclaimer can be similarly extended.

If the Court is not satisfied that the lease should be disclaimed as a whole, but is satisfied that it is equitable to allow it to be disclaimed in respect of one or more of the separate tenements, it shall make an order for the lease to be regarded as two separate leases, one of which may be disclaimable. If such an order is made the Court is to apportion the rent and deal with the question of any sub-leases.

Where a notice to elect has been served, and an application is made to the Court by the tenant, the Court can make an order that the tenant shall not be deemed to have served a notice of retention if he has failed to comply with the notice to elect.

Additional Assessments Under Schedule D

By W. B. COWCHER, O.B.E., B.Litt., Barrister-at-Law

Additional assessments are made by virtue of Section 125 of the Income Tax Act, 1918. In substance this was a re-enactment of Section 52 of the Taxes Management Act, 1880, but the time limit was changed. Under the 1880 Act the powers of the surveyor could only be exercised within a period of four months after the expiration of the year of assessment, so that August 5 was the latest date. By the Finance Act, 1907, the time-limit was made three years and by Section 29 (1) (3) of the Finance Act, 1923, it was further extended to the existing limit of six years.

Those parts of Section 125 which affect the present subject are as follows :—

> 125.—(1) If the surveyor discovers—
>
> that any properties or profits chargeable to tax have been omitted from the first assessments ; or that a person chargeable has not delivered any statement or has not delivered a full and proper statement, or has not been assessed to tax, or has been undercharged in the first assessments ; or that a person chargeable has been allowed, or has obtained from and in the first assessments, any allowance, deduction, exemption, abatement, or relief not authorised by this Act,
>
> then and in every case—
>
> (i) (Relates to Schedules A, B, or E.)
>
> (ii) where the tax is chargeable under Schedule D, the Commissioners shall make an assessment, on the person chargeable, in an additional first assessment, in such a sum as, according to their judgment, ought to be charged, and any such assessment shall be subject to objection by the surveyor, and to appeal.

The operative word is " discovers," and its meaning has been considered in a series of legal cases.

In *Rex* v. *The Kensington Income Tax Commissioners* (*ex parte Aramayo*) (1913, 3 K.B. 870, 6 T.C. 279), it was argued by counsel for Aramayo that it meant " ascertain by legal evidence." The Divisional Court was unanimously against this restriction ; but the three judges differed in their interpretations. Bray, J., said : " It means, in my opinion, simply ' comes to the conclusion ' from any examination he makes, and, if he likes, from any information he receives." Avory, J. : " I think the word means ' has reason to believe.' If it is construed in the sense ' has reason to believe ' it is consistent, and only in that way is it consistent, with the whole scheme of the legislation." Lush, J. : " Now,

if you take the word 'discovers,' as I think it clearly was intended to be taken, as merely an alternative to 'find' or 'satisfy himself' the difficulty disappears. It simply means, then, that if the surveyor finds that there has been a defect in the first return, then he can take steps to remedy it by putting the Commissioners in motion."

In the *Aramayo* case there was no question of second thoughts by the Revenue. Certain facts had come to the knowledge of the surveyor indicating a liability not covered by the first assessment.

There was an extensive discussion of the subject in *Rex* v. *Commissioners of Taxes for St. Giles and St. George, Bloomsbury (ex parte Hooper)* (1915, 3 K.B. 768, 7 T.C. 59); but the next important case is that of *Anderton & Halstead, Ltd.* v. *Birrell* (1932, 1 K.B. 271, 16 T.C. 200). There, Rowlatt, J., would not admit "discovery" where an Inspector wished to revise the valuations put upon certain doubtful debts *in the light of later evidence*. He remarked in his judgment: "How greatly it would have simplified the problem if it could have been said that the Inspector makes a 'discovery' if he merely changes his opinion without any new information at all."

Two years later, in *Williams* v. *Trustees of W. W. Grundy (Deceased)* (1934, 1 K.B. 524, 18 T.C. 271), the point arose again. The case concerned the interpretation of a will. The testator had died in 1926, and in 1927 the probate and a copy of the will had been sent to the then Inspector. In April, 1929, the trustees made an income tax return for the year 1929-30 in which they referred to their holding of Registered 5 per cent. War Loan and stated that it was not taxable as the income was held for A, a domiciled American, until he attained the age of 21 years. A statutory declaration was made on July 17, 1929, by one of the trustees that the said A was the beneficial owner and entitled to the interest.

The question of liability was fully discussed between the trustees and the then inspector in connection with the proposed making of an additional assessment for 1928-29 and, after this, the trustees were informed in August, 1929, by the same inspector that the proposed additional assessment would not be made. For 1930-31 and 1931-32, on the returns made by the trustees, it was stated that the income was not taxable and that it was being held in trust for A "until he attains the age of 21."

In December, 1931, another inspector, re-examining the position, found that the interest of A was not vested but contingent, so that the interest was taxable. He caused additional assessments to be made upon the trustees for the years 1928-29, 1929-30, 1930-31 and 1931-32. On appeal it was contended that there had been no "discovery"; but it was argued for the Crown that each of the three conditions in Section 125 had been fulfilled. The Special Commissioners, however, held that, as the facts were completely made known to the Revenue and had been fully examined by both sides, the re-examination by another inspector with a different conclusion was not a "discovery" in terms of the Section. They therefore discharged the assessments.

In the King's Bench Division, on December 11, 1933, Finlay, J., found for the Crown. He attached no importance to the change of inspectors. It would have been the same thing if the old inspector had, on a re-survey of the facts, changed his opinion. He based his judgment upon the authorities as a whole, with particular reference to the *dicta* in the *Aramayo* case already mentioned. Distinguishing the case from *Anderton & Halstead, Ltd.* v. *Birrell* upon the facts, he held that the inspector had made a "discovery." He found himself unable to apply the words of Mr. Justice Rowlatt, quoted above, "to every case, in the sense of reading them as meaning that an inspector can never make a discovery if the meaning of that discovery involves a change of opinion." His decision in favour of the Revenue was, he thought, not only in accordance with the authorities, but also in accord with the Section itself.

In the writer's opinion, the weakness of the trustees' position in the *Grundy* case lay in the fact that they had a statutory duty to return the income for assessment and had not done so. The Income Tax Acts do not impose upon the inspector any duty to examine legal documents and advise trustees as to their position. The second inspector did definitely discover that the trustees had innocently misrepresented the position to the first inspector and had not delivered a full and proper return, with the result that there had been omissions from assessment. The case was, therefore, not one of a simple change of opinion.

The next examination of the problem was in *British Sugar Manufacturers, Ltd.* v. *Harris* (K.B.D., 1937, 3 All E.R. 702; C.A., 1938, 2 K.B. 220, 21 T.C. 528). Here there were two objections to the additional assessments which had been made. Even if there was liability in principle, which was contested, there had been no "discovery." It was not disputed that the material facts were before the inspector when the original assessments were made. It was, in fact, a simple case of change of opinion. Deciding for the Crown in principle, the Special Commissioners held, "with some doubt," that upon the "discovery" point they were bound by *Williams* v. *Grundy's Trustees*.

In the King's Bench Division Finlay, J., decided for the Crown upon both issues, following his own judgment upon the "discovery" point. In the Court of Appeal it was held that the amounts in dispute were not taxable in principle; and so no decision could be obtained upon the question of "discovery." But the discussion which took place after judgment had been given was significant. The Master of the Rolls stated: "Of course, it will not be taken from that by anybody concerned that it means that we are necessarily in agreement with the decision of the Court below," whilst Romer, L.J., remarked: "It will be observed by those interested in such matters that Mr. King"—the counsel for the company—"was not called upon to reply upon that question; they will be able to form their own opinion, therefore, as to the views of the Court, without hearing the reasons why those views have been formed." It will be noted that these remarks indicated that, had the Court been called upon to decide as to "discovery," it would have been against the Crown.

The last case to be considered is that of *Commissioners of Inland Revenue* v. *Mackinlay's Trustees* (1938, S.L.T. 587, 22 T.C. 305), a sur-tax dispute. In regard to this tax it is necessary to bear in mind that the Special Commissioners have a double set of functions, being at once the assessing and the appellate authority. As the former, by Section 42 (7) of the Finance Act, 1927, they have the powers of an inspector and so, in relation to "discovery," they are upon the same footing so far as change of opinion is concerned.

The issue in the case depended upon the interpretation of a clause in a deed of partnership whereby it was provided that, in the event of the death of a partner, the sum payable for his share should include a sum in lieu of profits for the period between the date to which the last balance sheet of the firm was made up and the date of death. This was to be calculated by reference to the average profits during the three preceding years for the corresponding period. One partner died in

December, 1934, and in the return of his income for sur-tax for the year 1934-35 the trustees included his share of the profits of the firm computed in accordance with the partnership deed. The assessing Commissioners, who were as such in possession of the full facts, originally took the view, which they communicated to the trustees in November, 1935, that the deceased was not entitled to any share of the firm's profits for 1934-35, apparently regarding the matter as one of a capital payment.

Later, they changed their view and, after notifying this fact to the trustees, raised an additional assessment upon the amount in question for 1934-35, regarding it, under Section 20 of the Income Tax Act, 1918, as the " share to which he was entitled during the year." The trustees appealed ; and the appellate Commissioners, although, as already mentioned, they had, in the *British Sugar Manufacturers'* case, regarded themselves as bound by the decision in *Williams* v. *Grundy's Trustees*, apparently no longer felt themselves so bound in view of the *obiter dicta* upon the subject in the Court of Appeal and, reverting to their old view as to the limitations of " discovery," discharged the assessment.

The facts in *Commissioners of Inland Revenue* v. *Mackinlay's Trustees* were stronger than in *Williams* v. *Grundy's Trustees* inasmuch as it could not be said that Mackinlay's trustees had not made a correct return for assessment. It was, in fact, as clear a case of changed opinion as it was possible to have. Nevertheless, the Court of Session was unanimous that the " discovery " of a mistake in law was as much a " discovery " within Section 125 as a mistake of fact would have been.

The position to-day, then, is that, although in the *British Sugar Manufacturers'* case the Court of Appeal indicated its disagreement, this fact has no legal force, with the result that *Williams* v. *Grundy's Trustees* and *Commissioners of Inland Revenue* v. *Mackinlay's Trustees* govern the matter pending a decision in the House of Lords.

The result is that, inasmuch as no official has power to bind the Crown so that an estoppel is created, even if the basis of assessment is agreed with the Revenue —and as to this the Special Commissioners as the assessing sur-tax authority have no greater powers in law than a district inspector—there will be nothing to preclude additional assessments being made if the conclusion is reached that the agreement is founded upon a mistake. What is more, the power is not limited to one " discovery." There may be more than one mistake in law or fact, and each may produce a new series of additional assessments.

Nevertheless, there remains one important factor to be considered. In none of the cases reviewed was the original agreed method of assessment one whereby the taxpayer's position had been prejudiced. But his position might be prejudiced in some circumstances. If, for example, the question were one of residence, and it was made known that if the Revenue held that a person was resident in the United Kingdom he would forthwith cease to be, then, if, after the disclosure of the full facts, the Revenue held that he was non-resident, but some years afterwards revised their opinion upon precisely similar facts, such a case would in equity be much stronger than any of the cases mentioned as regards the right to make additional assessments for *back* years ; and, should such a case be taken to the Courts upon the question of " discovery," there would probably be a greater chance of success. It is, however, only right to suggest that, in the absence of other reasons, it is very unlikely that the Revenue would take any unfair advantage of the legal position, and that the right to make additional assessments in such circumstances, even if it existed, would not be exercised.

One further aspect of the matter remains to be considered. This relates to the finality of appeals decided by the General or Special Commissioners. By Section 133 (2) of the Income Tax Act, 1918, their decision is to be final except upon a point of law. It sometimes happens that new facts come to light after the Commissioners' decision showing conclusively that the taxable profits are greater than the determined amount. As to whether the right to make additional assessments exists in these circumstances there is a distinct conflict of opinion, and the matter has never been tested in the Courts. In the writer's view, guidance is to be obtained from sub-section (3) of Section 133. In this connection, it must be remembered that the two sub-sections were originally sub-section (10) of Section 57 and Section 58 of the Taxes Management Act, 1880, and were only consolidated by the Act of 1918. Although the right is now dormant, the inspector, equally with the taxpayer, has the right to object to assessments made by the Additional Commissioners and to take the matter to appeal. Sub-section (3) provides that when objection has been made by the surveyor and the appeal has been determined :—

> the surveyor shall not, thereafter make any further charge for the same year, upon that person, in respect of the same matter, property, or profits included in the assessment to which the objection, so determined, was made.

It would be a strange position if the right to make additional assessments were different where the appeal is made by the taxpayer from what it is when the appeal follows an objection by the Revenue. It is the writer's view that sub-section (3) contains what is, in effect, a definition of " final " and that the word in sub-section (2) should be so interpreted.

Statistical Control—II

By W. J. BACK, Incorporated Accountant

The directors of a business may either live from hand to mouth, accepting each day as it comes, determining sales policy, dealing with business received, etc., as seems best in the light of the moment ; or they may plan in advance : endeavouring to foresee the trend of events as it affects their own business and on that basis arrive at a considered policy as to the lines of advance and the best possible allocation of resources, both in plant and in finance. Such a plan will not prevent changes if business prospects, not in sight when the plan was made, accrue as time goes on, but it will reduce the friction of unexpected events and enable decisions to be arrived at deliberately instead of in a hurried and haphazard fashion.

Scientific planning involves the preparations of a summary statement of the type known as a " budget." In contrast to the annual financial statements which review the happenings of a year past, a budget attempts to forecast the events of a future period. Past experience will be carefully examined in its preparation, together with all other information

available, and a summary statement of the result and of the proposals—analogous to the Chancellor's Budget—will be laid before the management. The directorate will thus be enabled to perform its proper function of reviewing alternatives and deciding in advance upon policy.

The first step is to forecast the probable sales of the company's products during, say, the ensuing year. The sales department will be required to review the position and to prepare a detailed esitmate of the probabilities. As almost all businesses are to some extent seasonal this anticipation should be built up by forecasting the sales for each month (or other suitable short period) in the year.

Next, a "production budget" will be prepared, possibly by the costing office under the supervision of the factory manager. It will assume the anticipated sales and will show the quantities of materials, cost of labour and other direct charges, and the burden of overheads involved in the production of this output. Where the method of working is that of a group of companies or factories there will be a separate production budget prepared in respect of each unit and the whole amalgamated at the centre. If the total productive capacity of the organisation is in excess of the anticipated sales, consideration will be given to the allocation of the available business to the most efficient units; whilst at the same time attention will be directed to the excess and consideration given to the possibility of some form of sales campaign by which it will be absorbed. On the other hand, any requirements of additional plant necessary to give the necessary output can be anticipated and provisions made. Standard costs of each productive unit will be used for the preparation of an anticipatory trading account, and consideration given by the management to questions of prices.

Finance will then have to be reviewed. Given the monthly sales anticipated, and assuming average payment dates, a statement can be set up showing the funds which will be received in each month of the year. Information as to the required quantities of materials and the dates of requisition is given in the production budget, converted into anticipated cost, together with cost of labour and overheads; this information can also be tabulated into a monthly statement, aggregated with the payment dates of new plant considered to be necessary.

A statement beginning with the funds available at the commencement of the year, to which is added the funds becoming available during each month, offset by the funds necessary in the period to pay for materials and wages, can be balanced monthly, management consideration being directed to any resultant problems.

On the basis of these several statements full consideration can be given by the management and the board to the projected programme for the year and decisions can be made. If a number of companies or factories are working as a group, appropriate instructions can be given from the head, competition between the units obviated, and economy and efficiency promoted by the consideration of comparative figures and costs.

These statements are throughout based upon anticipations and estimates; in the nature of the case the accuracy attained by the annual retrospective financial statements cannot be reached, but the budget does not require this degree of accuracy. Very large budgets, however, in the case of large public utility concerns, have been found to be within 5 or 10 per cent. of accuracy. An undertaking depending on a selling programme and operating on a competitive basis will rarely be able to forecast its turnover without allowing a much wider margin of error. Still, it is surprising how close an approximation can be made with growing experience and in reasonably normal times, and the attempt to construct a budget will bring to light considerations which otherwise would remain entirely hidden.

Having determined upon a programme and a policy, it remains to supervise closely its execution or a good deal of the value will be lost. Responsibility for carrying out management decisions must be fixed narrowly; nobody can be held responsible in a matter in regard to which he has not complete authority.

Continuous control over the whole organisation will be obtained if periodical returns, probably monthly, of progress are made by each section or unit, with accumulated figures for the year to date. These returns must be made promptly at the close of each period; their value will be lost if delay is allowed to occur.

These monthly returns will be compared with the monthly schedules of anticipated sales, etc., on which the budget was based, and enquiry will be made into the causes of any substantial divergence, so enabling the management to manage.

Sales divergence will, of course, be the least susceptible to control of the matters brought under consideration; but the ratio of cost of materials, labour and overheads to production will be scrutinised narrowly and enquired into closely.

Whilst the scheme outlined in the foregoing for the statistical control of large organisations has been regarded from the point of view of a manufacturing concern, it is almost equally valuable for the direction of a trading organisation. Sales depending on the vagaries of fashion are difficult to forecast, but they will often be found to average out, and the principal matters for consideration here are ratios, burden of overheads and finance, including the cost of stock holding.

(Concluded)

RECENT LEGAL CASES

The following recent legal cases are dealt with in this issue:—

TAXATION

Excess Profits Tax

This article on practical points arising from the Excess Profits Tax is in continuation of the series recently published.

We have been asked to show a specimen computation of standard profits and capital where the accounting date is other than December 31. The illustration which follows is that of a company which is controlled by the directors, and which made up accounts to December 31, 1935, then made up an 18 months' account to June 30, 1937, and thereafter yearly accounts to June 30. In 1935 a loss was shown, and the standard period 1936 and 1937 was selected.

SUMMARISED BALANCE SHEETS

	31.12.35	30.6.37	30.6.38
	£	£	£
Goodwill	15,000	15,000	15,000
Plant and machinery at cost, less depreciation	8,880	7,628	6,996
Factory at cost, plus additions, less depreciation	3,000	2,824	2,668
Motor cars at cost, less depreciation and losses on sales	500	456	882
Fixtures, etc., at cost, less depreciation	300	849	858
Stock	7,500	8,500	12,000
Debtors	7,000	11,500	19,000
Prepayments	50	75	100
Preliminary expenses	350	350	—
Bank balance	8,000	5,000	12,500
Profit and loss account	600	—	—
	£51,180	£52,182	£70,004
Share capital	36,625	36,925	39,850
Creditors	14,555	8,553	14,522
General reserve	—	—	4,000
Profit and loss account	—	6,704	11,632
	£51,180	£52,182	£70,004

E.P.T. CAPITAL FROM BALANCE SHEETS

	£	£	£
Issued capital	36,625	36,925	39,850
Profit and loss account balance	− 600	+ 6,704	11,632
General reserve	—	—	4,000
I.T. and N.D.C. reserves	—	—	1,460
Preliminary expenses written off	—	—	350
Depreciation and sums written off assets	—	1,957	1,371
Do. brought forward	—	—	1,957
	£36,025	£45,586	£60,620
Wear and tear, obsolescence, allowances for depreciation of factory	—	1,453	880
Do. brought forward	—	—	1,453
Staff bonuses voted at annual general meeting and due at date of balance sheet	—	1,000	2,000
Income tax "due" but in arrear	—	17	119
		2,470	4,452
Difference	£36,025	£43,116	£56,168

PROFITS FOR E.P.T.

		18 mos. to 30.6.37		Year to 30.6.38
	£	£	£	£
Profits for I.T. before N.D.C.		7,745		11,291
N.A.V. factory		219		145
Directors' fees		1,500		1,600
		9,464		13,036
Deduct: Rent	112		75	
Wear and tear	1,134		780	
		1,246		855
		£8,218		£12,181

ACCRUING PROFIT

	£	£	£	£
As above		8,218		12,181
Less: Expenses added back but paid away so as not to represent capital employed:				
Subscriptions	147		43	
Directors' fees	1,500		1,600	1,643
		1,647		
				10,538
Difference between additional allowance of one-fifth and one-tenth for wear and tear from 5.4.38				16
		£6,571		£10,522

Standard profit 1936 and 1937 £8,218 + ½ £12,181 = £14,308, or £7,154 per annum.

RECONCILIATION OF CAPITAL

	£
Capital at 31.12.35	36,025
Accruing profit, 18 months to 30.6.37	6,571
Additional capital	300
Amount credited to appropriation account in 1936 *re* 1935	237
	43,133
Less Income tax due 1.1.37	17
Capital at 30.6.37	43,116
Accruing profit, year to 30.6.38	10,522
Additional capital	2,925
	56,563
Less Income tax due 1.1.38	395
Capital at 30.6.38	£56,168

AVERAGE CAPITAL

	£
Capital at 31.12.35	36,025
Receipt credited to appropriation account	237
Additional capital	300
Accruing profit £6,571 × two-thirds	4,381
Capital 31.12.36	£40,943
Year 1936	£
Opening capital	36,025
Receipt credited to appropriation account	237
Income tax due 1.1.36	Nil
Additional capital, May, 1936: £300 for seven months	175
Accruing profit £4,381 for six months	2,190
Dividend paid	Nil
Average capital, 1936	£38,627

Year 1937		£
Capital 31.12.36 (as above)		40,943
Income tax due 1.1.37	17	
Accruing profit to 30.6.37 :		
One-third of £6,571=£2,190, equivalent to £2,190 at 1.4.37, i.e., for nine months		1,642
Accruing profit : six months to 31.12.37 :		
Half of £10,522=£5,261, equivalent to £5,261 at 1.10.37, i.e., for three months		1,315
Additional capital prior to 31.12.37		Nil
		43,900
Dividends paid	Nil	17
Average capital, 1937		£43,883

Standard capital 1936 and 1937=£38,627+£43,883=£82,510, or £41,255 per annum.

The following points should be noted :—

(*a*) Depreciation is added back to profits and capital, and wear and tear deducted instead.

Staff bonuses voted at the annual general meeting will be deducted in the income-tax computation (and therefore for E.P.T. purposes) and in the capital computation.

The income-tax liability deducted in the capital computation was not ascertained at the date of the balance sheets in this case, and has therefore to be deducted as a " new " liability.

(*b*) The ascertainment of the " accruing profit," following principles emphasised in previous articles.

(*c*) In ascertaining the profits of the standard period, only 10 per cent. is allowed to be added in respect of additional wear and tear allowance. But, in this case, the income-tax allowances have been employed, and as 20 per cent. has been allowed from April 5, 1938, for income tax, effect must be given to this figure in the accruing profit and in the capital computation.

(*d*) The profits earned in 1937 are equivalent to additional capital of £2,190 paid in on April 1, 1937, and £5,261 on October 1, 1937.

(*e*) The " nil " items are included to remind readers that other adjustments will arise in many cases. This example has been kept relatively simple so as not to obscure the principles.

Taxation Notes

Ground Rents

For 1940/41 onwards, ground rents are in the same category as patent royalties so far as deduction at source is concerned, and it is therefore no longer necessary to see whether the Schedule A assessment covers the amount of the ground rent. Tax is deductible at the rate in force when the ground rent becomes due, unless the payment is not made out of profits or gains brought into charge to tax when the rate in force at the date of payment must be applied (General Rule 21).

N.D.C. and E.P.T.—Stallions

It is well known that where a breeder of racehorses for his own use keeps a stallion for service of both his own mares and those of other persons brought to the farm, the whole of the activities are covered by the Schedule B assessment for income tax purposes. In this way, large sums have escaped tax in the past. A promise was made in Parliament to revise the basis of assessment on farmers generally, and no doubt this anomaly will be removed in the next Finance Act.

For N.D.C. (and, therefore, for E.P.T.) the Special Commissioners have ruled that farming is a trade or business within the charge. The charge is on the business, however, and the Commissioners take the view that only commercial activities can constitute a business. Stallion fees are, therefore, within the charge to N.D.C. and E.P.T., subject to the deduction of the proportion of the expenses of keeping the stallion, which can be attributed to the " outside " mares. None of the expenses of the " hobby " of breeding can be set off against such fees. Whether or not the Commissioners are right in their interpretation is arguable, but taxpayers must recognise their views unless willing to test the matter in the Courts.

Rule 13, Cases I and II, Schedule D

In view of the decision of the Commissioners referred to in the preceding note, it appears that the refusal of the Revenue to allow relief under Rule 13 to farmers could be successfully contested. It is clear that the term " business " is wider than the term " trade " and includes it. The point may not be of present importance, but is worth bearing in mind. Income tax is far from static in any sense, and accepted " principles " are not infrequently decided to be wrong when tested in the light of other developments.

Profit Rentals

The provisions of the Finance Act, 1940, make obsolete for all practical purposes the decision in *Fry* v. *Salisbury House Estates* (1930, 15 T.C. 266). It is still true, however, that profit rentals cannot be assessed as part of the business profits under Cases I and II of Schedule D ; the taxable capacity of the property in land and buildings is exhausted by the Schedule A assessment, amplified by Case VI where relevant. This point may be of importance in some instances owing to the different bases of assessment.

LETTER TO THE EDITOR

E.P.T.—Minimum Standard : Additional Allowance

DEAR SIR,—With reference to the note in the October issue, would you publish an illustration of this additional allowance ?

I make this request because of a case in hand in which the Inspector states that the additional allowance is computed at 6 per cent. of the capital employed (assets less liabilities) over and above £5,000 per working proprietor, whereas I am informed by a practitioner that he has received an allowance based on the value of the assets (gross).

Hull, November 19, 1940.

Yours faithfully,
J. REYNOLDS.

[It will be realised that the additional allowance is a matter of departmental practice. It is understood that it is to be applied by arriving at the true capital employed, as distinct from the capital employed as computed for the purpose of calculating increases and decreases. The sum of £5,000 per working proprietor is then deducted and 6 per cent. of the balance is added to the minimum standard of £1,500 per working proprietor. To base the allowance on the value of the gross assets appears to be a wrong interpretation of the practice, and one which cannot be justified on any grounds. If it were to be adopted it would mean that the standard could be inflated simply by refraining from paying creditors, which would give a most anomalous result. The true value of the assets, of course, will be on a going concern basis and not on cost price or realisable value.—EDITOR, ACCOUNTANCY.]

Recent Tax Cases

Sur-tax.—Settlement payments—Effect of revocation—Finance Act, 1922, Section 20—Finance Act, 1938, Section 38 (1), Third Schedule, Part II.

Commissioners of Inland Revenue v. *Payne*, and *Commissioners of Inland Revenue* v. *Gunner* (K.B.D., June 7, 1940, T.R. 367) were two cases which arose out of the provisions in the Act of 1938 for stopping the evasion of sur-tax by means of revocable settlements. In *Payne's* case the respondent covenanted to pay to a company formed for the purpose of tax evasion a weekly sum of £72 net after deduction of income tax. The payments were to continue for the rest of his life. He had complete control of the company and the payments under the covenant were to be applied to the redemption of preference capital and so returned to him. The covenant contained no power of revocation but was to cease upon the winding up of the company. In *Gunner's* case the respondent covenanted to pay a monthly sum; but the deed did contain a power of revocation. The Finance Act, 1938, received the Royal Assent upon July 29 and towards the end of October the respondent revoked the covenant so as to reduce the annual sum to a shilling, and, upon the following day, revoked it altogether.

By paragraph 1 of Part II of the Third Schedule to the Act, Section 38 (1) was not to apply in circumstances set out in sub-paragraphs (*a*), (*b*) and (*c*), and the issue was whether, if the power of revocation within Section 38 (1) (*a*) had ceased within the three months specified by reason of the complete cessation of the settlement, the exemption conferred by paragraph 1 was operative. Upon a literal reading of sub-paragraph (*a*) the position was covered; but the Crown argued that sub-paragraphs (*a*), (*b*) and (*c*) must be read together, and that for (*a*) to operate the continued existence of the settlement was necessary, complete cessation being dealt with by (*c*), which required the creation of a new settlement.

Lawrence, J., decided in favour of the Crown in both cases. He held that in *Payne's* case his power to wind up the company amounted to a power of revocation, whilst in both cases compliance with the provisions of sub-paragraph (*c*) was necessary. He also agreed with the Crown's argument that a covenantee's right to release the benefit of a covenant was not a "power" but a right of property.

Income Tax—Trade profits—Instalments of payment for monopoly value—Licensing (Consolidation) Act, 1910, Section 14 (2)—Income Tax Act, 1918, Schedule D, Cases I and II, Rule 3 (f).

In *Kneeshaw* v. *Abertolli* (K.B.D., June 13, 1940, T.R. 391) the issue was whether a payment by a licensee under Section 14 of the Licensing (Consolidation) Act, 1910, in respect of the monopoly value of a public house was admissible as a deduction in arriving at the profits of the publican under Case I of Schedule D. Upon the first application for an annual licence the Act makes it the duty of the licensing justices to assess the whole monopoly value which is to be secured to the public. But they have also powers to grant a licence for more than one year, and when they do so are authorised to assess the monopoly value for the number of years for which they grant it.

The respondent had paid £75 for a licence for three years and claimed to deduct one-third of this sum in arriving at the profits of his business for the year. The General Commissioners had allowed the claim, but their decision was reversed by Lawrence, J. It was shown that in all the cases cited the payment in respect of monopoly value had been held to be a capital sum, with the exception of certain observations by Scott, L. J., in *Appenrodt* v. *Central Middlesex Assessment Committee* (1937, 2 K.B. 48), Lawrance, J., held that, whether the payment was in respect of the entire monopoly value or part of it, if the application was for a licence *for more than one year*, the sum assessed was a capital sum and the fact of payment in instalments did not alter its character.

In the rating case above-mentioned, the question was whether or not the payment in respect of monopoly value was a deduction in arriving at the rating assessment upon the occupier. The decision that it was not was unquestionably sound but was arrived at by a tortuous route. Payment for monopoly value is payment for a differential advantage and, in essence, does not differ from a payment in respect of site value. In other words, admissibility or otherwise depends upon whether the payments are instalments of a capital sum or annual payments in the nature of rent. Here, as in the case of premiums for short leases, the general principle works harshly, and particularly so because the benefit of monopoly value enures to a public authority and is not an untaxed private profit.

Income Tax—Schedule E—Director of United Kingdom company—Ordinarily resident abroad—No duties performed in the United Kingdom—Whether fees assessable—Schedule E, Rules 1, 18 (2).

McMillan v. *Guest* (K.B.D., June 14, 1940, T.R. 395) is a decision of wide application in these days of interconnected companies. In 1914 the appellant became managing director of a company incorporated, controlled and trading in the U.K. In 1919 he became general manager of an allied company in U.S.A., ceasing to be managing director of the U.K. company but retaining his directorship. After 1914 he had been resident and ordinarily resident in U.S.A., and in 1938 he became an American citizen.

In 1923 the U.K. company sold its assets and undertaking to a new company of the same name and went into liquidation. The new company was resident in and controlled in the U.K. and had a minority interest in the U.S.A. company. Appellant became a director of the new company, and copies of all its minutes, annual balance sheets, and managing directors' and auditors' reports, were sent to him in U.S.A. However, he took no part in the management and exercised no function in the U.K. as director, except that, whilst on holiday in the U.K. in 1931, he attended one board meeting, and also attended a board meeting held in U.S.A. in 1925. Notices of board meetings were not sent to him.

The General Commissioners decided that, as he retained the right and duty to exercise the power of a director of the new company, he was assessable under Schedule E in respect of his fees; but this was reversed by Lawrence, J.

It was argued for the appellant that the question turned upon the construction of Schedule E, and that *Pickles* v. *Foster* (1913, 1 K.B. 174, 6 T.C. 131) and *Proctor* v. *Ryall* (1928, 7 A.T.C. 287, 14 T.C. 204) decided that liability under Schedule E was restricted to cases where the exercise of the office was in the U.K. *Barson* v. *Airey* (1925, 5 A.T.C. 65, 10 T.C. 609), was distinguishable on the facts, whilst *Bennet* v. *Marshall* (1938, 16 A.T.C. 377, 22 T.C. 73), being a decision under Schedule D, was irrelevant. Further, it was contended that under the Companies Act, 1929, a director's duties do not necessitate his presence in the U.K. or any

activity in the U.K. which can be called the exercise of his office.

For the Crown it was contended that *Bennet* v. *Marshall* was inconsistent with *Pickles* v. *Foster* and *Proctor* v. *Ryall*, and the acceptance of a directorship of an English public company, coupled with the duties imposed by the Companies Act, 1929, involved the director having or exercising his office within the U.K., the fundamental matter being the source of his income, which was in the U.K.

Lawrence, J., held that he must follow *Pickles* v. *Foster* and *Proctor* v. *Ryall*, which were Schedule E cases not considered by the court in *Bennet* v. *Marshall*. He agreed with the reasoning of Rowlatt, J., in *Proctor* v. *Ryall* and, in particular, that Rule 18 (2) of Schedule E indicates that the place of exercise governs. Here there was no exercise.

The case is listed for appeal; but the Income Tax Codification Committee (Report, pp. 53-55) found no clear guidance from the then existing case law upon the points at issue in these international employment cases; and it may be suggested that *Bennet* v. *Marshall* and the present case have only made matters worse. The Committee made proposals for amending legislation; but, from the administrative point of view, one of their proposals, for "splitting," would seem to be a remedy even worse than the disease.

Schedule D—Sale of business to company—Orders received prior to sale excluded and executed by company as vendor's agent—Whether receipts are capital or income.

The case of *Southern* v. *Cohen's Executors* (*Watson and Others*) was noted in our issue of May, 1940. In the Court of Appeal (July 2, 1940, T.R. 413) the Crown was not called upon. Subject to one comment, Scott, L.J., who delivered the judgment of the court, agreed with the judgment of Lawrence, J., who had said that the arrangement whereby outstanding contracts of the vendor were carried out by the new company amounted to a new business in which the latter acted as the vendor's agent. He had also said that the Commissioners had found no facts inconsistent with this view and he did not think that there was any evidence upon which they could have found that the business in connection with the old orders was not a new business.

The comment, nevertheless, is one which is not without its importance in regard to the question of succession to part of a business. He said that possibly the agreement could be construed as excluding the orders in question from the sale and the deceased was therefore carrying on that part of his old business until those orders were executed and paid. In any case, the Commissioners were wrong in finding that the money was capital.

PUBLICATIONS

The Month's Publications

Law and Practice of the Estate Duty. By Sir Alfred W. Soward, C.B. Seventh Edition, by Harold C. Scott, LL.B. (Waterlow & Sons, Ltd. Price 17s. 6d. net.)

It is regrettable that the learned editor of this useful work died just before the publication of its seventh edition, which is now available. It is unlikely that Dymond on Death Duties will lose its recognised position on estate and kindred duties, and there is always Greene to refer to. None the less, since its first edition appeared in 1894, Soward's "Estate Duty" has provided in convenient form the relevant provisions of the various Finance Acts, with a careful commentary, as well as a digest of case law on the subject. It has succeeded in explaining matters of practice, involving not only questions of estate duty law, but concerned also with accountancy and business routine. Both the original author and the subsequent editor were particularly well qualified to write such a practical manual. The new edition is clearly indexed and the text is both careful in arrangement and lucid in exposition. In the commentary are included references to leading cases which have been brought up to date.

The Excess Profits Tax Law and Practice. By W. Miller, M.A., LL.B. (Eyre and Spottiswoode, Ltd. Price 35s. net.)

Mr. Miller's book on the Excess Profits Tax is especially valuable to the busy practising accountant in that it contains for easy reference the complete text of the E.P.T. statutes, together with summaries of other relevant enactments. The author claims that, besides his citation of a large number of Income Tax and Corporation Profits Tax cases, mention is also made of every Excess Profit Duty case.

Several chapters are devoted to the computation of capital, the exclusion of investments, etc., therefrom and the effects of accumulating profits. These thorny questions are discussed clearly and at length, but on the subject of interconnected companies Mr. Miller's heart fails him—Chapter X, which deals with this aspect, degenerates rather ignominiously for the last seventeen pages into a mere reprint of the Fifth Schedule of the Finance Act, 1940, interspersed with short paraphrases. One had hoped that the author might have been able to throw more light upon this very complicated question. On the whole, however, Mr. Miller, who has had extensive experience of E.P.D. as a Senior Inspector of Taxes, has produced a valuable work of reference.

Beyond a few pages of introductory synopsis, no attempt has been made to put the terms of the enactments into "simple language," but instead the excellent method has been followed of quoting the text of the Acts (suitably re-arranged under subject-headings) and then proceeding to give commentary thereon illustrated by examples and by case law. This work as a whole is of course too advanced for the average accountancy student, but it is a matter for regret that this method of exposition is not adopted more freely by the writers of students' textbooks: far too many men come into the examination room without having been nearer to an Act of Parliament than a potted summary will take them.

A protest must be entered against those who are responsible for limiting the circulation of this book by pricing it at 35s.—which is surely an unjustifiable price even in war-time conditions.

BOOKS RECEIVED

War Legislation, 1940. Edited by John Burke, Barrister-at-Law. Special Taxation Part by N. E. Mustoe, M.A., LL.B. (Hamish Hamilton (Law Books), Ltd., London. Price 7s. 6d. net.)

Conduct of and Procedure at Public, Company and Local Government Meetings. By Albert Crew, Barrister-at-Law, assisted by E. Miles, B.A., B.Sc. Seventeenth edition. (Jordan & Sons, Ltd., London. Price 8s. 6d. net.)

LAW

Legal Notes

EMERGENCY LEGISLATION

Notice re forfeit of deposit does not require leave of the Court.

In *O'Hara* v. *Lipman* (1940, 4 All E.R. 223), a point arose under the Courts (Emergency Powers) Act, 1939. The defendant in this case had agreed in writing to buy property from the plaintiff and had paid a deposit of £925. The date fixed for completion was September 30, 1939. The defendant alleged that owing to circumstances attributable to the war, he was unable to complete, whereupon the plaintiff extended the time to November 30, 1939, and his solicitors wrote to the defendant's solicitors on October 21 stating that if the engrossment of the conveyance was not received for execution together with the balance of the purchase money on or before that date, the vendor must exercise her remedies and claim the forfeiture of the deposit. The defendant contended that in giving such a notice the plaintiff was proceeding to exercise a remedy which was available to her by way of the forfeiture of the deposit within the meaning of the Courts (Emergency Powers) Act, 1939, section 1 (2), and was therefore precluded from taking that step without the leave of the Court. Morton, J., dismissed that submission. He held that by the letter of October 21 the plaintiff was not exercising a remedy available by way of forfeiture of the deposit, but was giving a notice which might have one of two results. The defendant might have found the balance of the purchase money and completed; if he failed, the contract would be void and the deposit forfeited. As the defendant in fact failed, the forfeiture arose directly from such failure, without a fresh intervening act by the plaintiff. The judge could not construe the Act as covering the sending of such a notice. The plaintiff issued a summons under the Act for leave to forfeit the deposit. On that question, the judge gave the defendant leave to file further evidence and adjourned the summons.

INSOLVENCY

Settled land—Bankruptcy of tenant for life—Unreasonable refusal to exercise powers.

In *re Thornhill's Settlement* (1940, W.N. 343), the Court of Appeal dismissed an appeal from a decision of Bennett, J., on a point under the Settled Land Act, 1925, section 24 (1). Under a voluntary settlement dated February 6, 1906, the appellant was tenant for life in possession of an estate comprising several farms. The estate had been long neglected and part had been requisitioned by the War Office under defence legislation. The appellant had refused to deal with the requisition and no vesting deed had been executed. The Official Receiver, as trustee in bankruptcy of the appellant, took out a summons asking that the Public Trustee, as trustee of the settlement, might be at liberty under the Settled Land Act, 1925, section 24 (1), to exercise in the name of the appellant all the powers of a tenant for life under that Act, on the ground that the appellant was bankrupt and had unreasonably refused to exercise those powers. The Court of Appeal unanimously agreed with the decision of Bennett, J., that the appellant had acted unreasonably in refusing to exercise his powers, and affirmed the order of the Court giving the Public Trustee liberty to exercise general powers of leasing the whole of the estate and to sell part of it. The appellant was ordered to deliver up to the Public Trustee all documents of title in his possession relating to the estate.

Currency Regulations—Registrars' Duties

Interest and dividends and the proceeds of drawn, matured or surrendered securities payable in sterling to persons outside the sterling area must be paid into certain types of accounts—"registered," "special" or "blocked." To implement this, registrars and company secretaries, before despatching warrants or similar instruments to payees at addresses outside the sterling area, must complete and lodge with their bank schedules showing the numbers of the warrants, the amount of each warrant, the payee's name and the country to which the warrant is despatched. The bank will then encash the warrants payable to non-residents in the sterling area by making a payment into the appropriate account. If warrants which do not appear on the schedules are presented for payment to the account of a non-resident, the paying banker is not authorised to pay them. The proceeds of sterling securities which are drawn for repayment, or mature or are surrendered, may be paid to non-residents only by a credit to a blocked sterling account. Registrars and company secretaries should note that in the case of registered or inscribed securities standing in the name of non-residents either payment must be made by crossed cheque or warrant marked "Payable to blocked sterling account of payee only" or, preferably, a mandate must be obtained for payment to a bank—being one of a number specified—with which arrangements for blocked accounts have been made, the crossed cheque or warrant being marked "Payable to blocked sterling account only." A schedule of cheques or warrants, in prescribed form, must be passed to the paying bank. A notice, again in prescribed form, must be sent to the stockholder with the cheque or warrant. In the case of securities—registered, inscribed or bearer—standing in the names of residents, payment may be made in the usual way if a declaration in prescribed form is obtained to the effect that no non-resident is entitled to any of the proceeds. If such a declaration cannot be completed by a person lodging bearer securities, he should be asked to produce Form B duly approved (showing the securities were purchased from moneys belonging to a non-resident), or else a certificate that the securities have been physically held in the United Kingdom since before September 3, 1939, on behalf of the non-resident owner. A cheque or warrant marked "Payable to blocked sterling account of . . . . . only" must then be issued. If Form B or the certificate cannot be furnished, reference should be made to the Bank of England. Amounts paid into blocked accounts can either be left there, earning no interest, or may be invested in any of a number of specified British Government securities. The prescribed wording of the various statements referred to in this note, together with a more complete explanation of the duties of registrars and company secretaries in relation to the regulations in question, can be obtained on application to Incorporated Accountants' Hall.

FINANCE — The Month in the City

Credit Expansion and Gilt-Edged

Notwithstanding some slight hesitation towards the end of the period, this has been another month of all-round recovery in stock markets. Gilt-edged in particular remain unshakably firm at what are really remarkably high levels. Old War Loan is steady at around the highest level seen since the Munich agreement more than two years ago. And the fact that the new War Loan issued last March remains consistently above par is evidence of a steady downward pressure on interest rates in general, which is manifested also in such things as the reduction in rates for local loans and by some building societies in the rates allowed on share subscriptions. The popular explanations of this market strength are the improvement in political confidence—encouraged, for example, by the excellent resistance put up by the Greeks—and on the other hand, the exceptionally tight technical position due to the shortage of stock on offer. Neither explanation cuts very deep and the two factors taken together cannot sufficiently account for the persistent strength which we have recently seen. One of the most significant things is that gilt-edged prices remain firm even in the face of unfavourable political developments; on the other hand, political confidence alone cannot explain why the prices of fixed-interest securities should be higher even than before the war broke out. The shortage of floating stock, for its part, gives only one side of the picture. Something more fundamental than a mere technical factor must be found which will explain both the absence of selling and, at the same time, the continued buying pressure.

Market Strength a Danger Signal?

This underlying influence is not far to seek. It is clearly evident in the extreme abundance of funds created by the rapid credit expansion of recent months. In October clearing bank deposits shot up by a further £64 million to a new high record of £2,661 million, making an expansion of no less than £206 million within three months. The motive force behind this movement is, of course, the excess of Government expenditure over current revenue and loan subscriptions, and the consequent need to borrow from the banking system. This Government borrowing is seen most directly in the rapid increase in the banks' holding of the new Treasury deposits, which in October were almost doubled at close on £180 million. By the end of November something like £300 million of this new type of floating debt will have been put into circulation. Admittedly this process of deficit finance does not leave the banks themselves in an abnormally liquid position, since their surplus cash is drawn off in exchange for Treasury deposit receipts. The expansion in bank deposits, however, represents a corresponding increase in the cash reserves of the public. This high degree of liquidity has shown itself, for example, in the rise to new record levels of outside applications for the practically unchanged supply of Treasury bills. But, in addition, it is the abundance of cash which accounts for the continued excess of demand over supply in the gilt-edged market. Only a part of the newly created money is drawn off into the new Government issues—otherwise there would be no need for an expansion in bank credit—and the remainder, seeking investment in a closed capital market, necessarily raises the general level of security prices. While a low interest basis for Government credit is normally to be welcomed, an exaggerated fall due primarily to credit expansion may, as Mr. Keynes has pointed out, be a warning that an unsound situation is developing, for if people feel liquid enough to invest at long term, they will tend also to spend rather than save. Fortunately, the bulk of the additional deposits are accumulating in the hands of companies and other institutional investors and will not be paid out as income. Rising commodity prices are, of course, the only conclusive evidence that an inflation is in progress and prices are comparatively stable; but it may be worth while remembering that impending inflation would first manifest itself in an exaggerated fall in interest rates. At this stage, it does not need showing that to seek to correct an unsound situation through high interest rates and credit stringency would be wholly futile. Cheap money must be maintained. But ultra-cheap money may be a timely warning that our existing financial methods are proving inadequate to their task.

The Search for Yield

Equities have again shared in the strength of fixed-interest securities, the *Financial News* index of ordinary shares—as will be seen from the table below—showing a further improvement of 3.5 points on balance to 70.0. Thus, the average run of industrials has now returned to within measurable distance of the levels ruling before the invasion of the Low Countries. None the less, as is also apparent from the table, ordinary shares show a depreciation of some 9 per cent. since the beginning of the war, in striking contrast with the improvement of some 9½ per cent. in fixed-interest securities. For this divergent trend, so flatly contradictory to most war-time experience, 100 per cent. E.P.T. and the dangers to industrial plant due to air raids are mainly responsible. In recent weeks, however, it has become clear that the market was at first inclined to exaggerate the dangers of air attack, whilst one important source of uncertainty will be removed by the promised war risk insurance scheme for property. Considering the steady reduction in the interest basis, therefore, the recovery in industrials does not seem by any means overdone. Indeed, it might be thought surprising that the abysmally low *net* yields now obtainable on Government stocks should not have prompted a more vigorous search for income in the industrial market. According to the actuaries' investment index, a yield of close on 9 per cent. was obtainable at the end of October on representative coal shares (as compared with only 3.35 per cent. on Consols) and a yield of close on 8 per cent. on iron and steel shares, while building materials—which have a strong post-war reconstruction equity—showed a return of over 6½ per cent.

"FINANCIAL NEWS" MARKET INDICES.

	Fixed Interest	Ordinary Shares
1939		
End August	113.4	77.5
1940		
End April	125.7	75.6
May	121.5	62.6
June	115.9	54.4
July	120.1	59.6
August	121.0	62.9
September ...	120.9	63.5
October	122.1	66.5
November 25	124.0	70.0

The Emergency Acts and Orders

In our November, 1939, issue we published the first instalment of a comprehensive guide to the war-time enactments and Orders which most concern the accountant. The series is brought up to date each month and the fourteenth instalment is given below. The summaries are not intended to be exhaustive, but only to give the main content of an Act or Order, the full text of which should be consulted if details are required.

ACTS

Securities (Validation) Act, 1940.

It is declared, for the removal of doubt, that the prohibition of capital issues contained in Regulation 6 of the Defence (Finance) Regulations did not apply before November 23, 1939, to mortgages, heritable securities or charges, except those relating to debentures. No security issued before November 23, 1939, is to be invalid on the grounds that Treasury consent was not obtained, but the liability to penalties is not affected.

(See ACCOUNTANCY, December, 1939, p. 66.)

ORDERS

COMMUNICATIONS

No. 1978. *Control of Communications* (*No.* 6) *Order*, 1940.

The restriction on the posting of printed matter from Great Britain to Northern Ireland, or from Great Britain or Northern Ireland to Eire, is relaxed to allow the sending of a single Christmas or New Year card between December 7, 1940 and January 1, 1941. A wider definition is given of postal packets with labels affixed which may not be sent to countries to which the censorship applies.

(See ACCOUNTANCY, August, p. 299.)

COMPANIES

No. 1884. *Defence* (*Bodies Corporate and Trade Unions*) *Regulations*, 1940.

Companies and trade unions are given power to apply their funds in loans to the Government free of interest, or in gifts for charitable or public purposes in connection with the war.

EXPORTS

No. 1932. *Export of Goods* (*Control*) (*No.* 39) *Order*, 1940. *Control of Export. Goods the exportation of which from the United Kingdom is controlled . . . November* 15, 1940.

The previous Export of Goods (Control) Orders are revoked, and consolidated lists of goods subject to export control are presented. As before, the lists comprise (*a*) goods which may not be exported to any destination without a licence; (*b*) goods which may only be exported to British Dominions, Colonies and Dependencies; (*c*) goods which may not be exported to certain named destinations. In addition, it is forbidden to export any goods to enemy territories or to Bulgaria, Estonia, Finland, French colonies and mandated territories (other than French Cameroons, French Equatorial Africa, French settlements in Oceania, New Caledonia, New Hebrides and French settlements in India), Greece, Hungary, Latvia, Liechtenstein, Lithuania, Poland, Rumania, Sweden, Switzerland, Vatican City, or Yugoslavia, or to the Black Sea, Baltic Sea or Arctic Sea coasts of the U.S.S.R. The provisions of earlier open general export licences are embodied in the Order, and food (except potatoes, grain and feeding stuffs for animals) may be exported without licence to the British Colonial dependencies. It is stated, however, that exporters of foodstuffs must still obtain import licences from the Colonial Governments, and these will be issued in the light of information supplied by the Ministry of Food on the situation in this country. The Schedule has also been published separately with an alphabetical index and explanatory notes.

No. 1943. *Open General Export Licence, November* 6, 1940. *No. G.L.*222.

The Board of Trade permits the export by parcel post of *bona-fide* gifts from one individual to another. The value of a parcel must not exceed £5, and there are some other conditions and exceptions.

(See ACCOUNTANCY, November, p. 30.)

FINANCE

No. 1944. *Regulation of Payments* (*Hungary*) (*No.* 3) *Order*, 1940.

No. 1958. *Regulation of Payments* (*General Exemptions*) (*Amendment*) (*No.* 5) *Order*, 1940.

No. 1959. *Regulation of Payments* (*Chile*) *Order*, 1940.

The previous Regulation of Payments (Hungary) Order is superseded, and the regulation of payments is extended to Chile.

No. 1979. *Acquisition of Securities* (*No.* 6) *Order*, 1940.

Holdings of American securities specified in the first two Acquisition of Securities Orders (1940, Nos. 213 and 527) in respect of which returns have been made since the dates of those Orders are now to be acquired by the Treasury. The prices to be paid are based on the prices stated in the previous Orders or on the market prices on November 16, whichever is the lower; but the November 16 prices are to be paid in all cases where at the date of the original Orders no person was under an obligation to register the securities.

No. 1989. *Order in Council amending the Defence* (*Finance*) *Regulations*, 1939.

The Treasury may require that a payment due to a non-resident shall be paid into a blocked account opened in favour of the payee at a bank. Sums standing to the credit of a blocked account may not be dealt with without Treasury permission, except for investment in securities specified for the purpose by an order of the Treasury.

If persons in the United Kingdom and the Isle of Man have direct or indirect control over a company incorporated abroad, they must do all in their power to secure that the company shall not part with or create a charge on any of its assets, and that it shall notify to the Bank of England any holdings of gold, foreign currency or securities controlled under the Defence Regulations and, if required, transfer them or any other of its assets to the Treasury for payment in sterling.

(See ACCOUNTANCY, Nov., p. 31, and this issue, p. 50.)

LIMITATION OF SUPPLIES

No. 1881. *Limitation of Supplies* (*Miscellaneous*) (*No.* 4) *Order*, 1940.

Registered persons were forbidden to supply any domestic hollow-ware made of aluminium between October 26 and November 30, 1940.

No. 1914. *Limitation of Supplies* (*Miscellaneous*) *Order*, 1940. *Licence and Direction.*

Registered persons were permitted to supply during November, 1940, an additional amount of pottery and other shaped and fired clay products under paragraph 8 of the Schedule up to 18⅓ per cent. of the quantity supplied during the period June 1 to November 30, 1939. Separate records must be kept.

(See ACCOUNTANCY, September, p. 321.)

PRICES OF GOODS

No. 1965. *Prices of Goods* (*Price Regulated Goods*) (*No.* 3) *Order*, 1940.

A number of materials and appliances used for air raid precautions are to be price regulated goods.

(See ACCOUNTANCY, November, p. 31.)

Society of Incorporated Accountants

COUNCIL MEETINGS

THURSDAY, NOVEMBER 28, 1940

Present: Mr. Percy Toothill (President) in the Chair, Mr. Richard A. Witty (Vice-President). The President and Vice-President were supported by a number of the Past-Presidents and other Members of the Council. Mr. A. A. Garrett (Secretary) was also present.

WAR TIME LEGISLATION

The Council were advised that information had been received and action taken in regard to Income Tax deductions from salaries and wages; application of the Purchase Tax; the Piece-Goods and Made-Up Goods Order and the Limitation of Supplies (Miscellaneous) Order.

OVERSEAS HOSPITALITY FOR CHILDREN OF MEMBERS OF THE ACCOUNTANCY PROFESSION

The Council expressed their cordial thanks for the kind offers received from the Dominion Association of Chartered Accountants, Canada, and from the American Institute of Accountants, who respectively offered hospitality to children of members of the profession.

EXAMINATIONS

The Council received a report in regard to the Examinations, July/August, 1940, and arrangements made for the Examinations to be held on December 19, 20 and 21, 1940, at Taunton School and Southport Technical College (by kind permission of the Governing bodies) and at the usual centres outside England and Wales.

MEMBERS AND CANDIDATES SERVING WITH H.M. FORCES

A statement was made to the Council of the number of members and candidates serving with H.M. Forces at the present time.

SOUTH AFRICAN MATTERS

It was intimated that Mr. Roger Laughton, A.S.A.A., was carrying out the duties of Acting Hon. Secretary of the South African (Eastern) Branch, Durban, during the absence on military service of the Hon. Secretary, Mr. Alan R. Butcher, A.S.A.A.

RESIGNATIONS

The following resignations of membership were accepted with regret as from December 31, 1940:—

MARTIN, JOHN WILLIAM (*Associate*), London.
SHAW, OLIVER JOHN (*Associate*), London.
WALTERS, WILLIAM JAMES (*Associate*), Cardiff.

DEATHS

The Secretary reported with regret the death of each of the following members:—

BARRETT, ALBERT (*Fellow*), Leeds.
FISHER, WILLIAM DUNCAN (*Fellow*), Glasgow.
GARLANT, HERBERT CHARLES (*Fellow*), London.
GROVES, THOMAS JAMES, M.C. (*Fellow*), West Hartlepool.
HILLS, ERNEST JOHN (*Associate*), Luton.
HORSNELL, ARTHUR DOUGLAS (*Associate*), Leeds.
JEWITT, WILLIAM (*Fellow*), Stockton-on-Tees.
LUND, JOHN (*Fellow*), Bradford.
PULBROOK, ERNEST CHARLES, O.B.E. (*Fellow*), Salisbury, S. Rhodesia.
SHARP, ARTHUR FRANCIS (*Fellow*), London.
SMITH, SYDNEY EDWIN, O.B.E. (*Fellow*), London.
WALLACE, WILLIAM DUNN (*Associate*), Kirkcaldy.
WILLOTT, JOSEPH HENRY (*Associate*), London.
WREFORD, BARTON ST. JOHN (*Associate*), London.
WRETTS-SMITH, HERBERT (*Associate*), London.

At a special meeting of the Council on November 28, 1940, upon the consideration of a report from the Disciplinary Committee, Mr. Harold Douglas Peck (Durban) was excluded from membership of the Society for dishonourable conduct, in accordance with the provisions of Articles 34 and 35.

PERSONAL NOTES

Mr. Henry Morgan, F.S.A.A., has been nominated as High Sheriff of Montgomeryshire, and Mr. Joseph Stephenson, O.B.E., F.S.A.A., as High Sheriff of Cambridgeshire and Huntingdonshire.

Mr. H. Basil Sheasby, A.C.A., A.S.A.A., has been appointed a member of the Committee established to assist the Minister of Food to keep food prices at a reasonable level. Mr. Sheasby represents on that Committee the Wholesale Distributors' Association.

The Council of the Society has heard with pleasure that Chief Yeoman of Signals L. H. Hanson, a member of the Society's staff who was recalled for service in the Royal Navy at the outbreak of war, has been mentioned in despatches for his services during the operations at Dunkirk.

Alderman W. H. Charles, F.S.A.A., has been elected Deputy Mayor of the Borough of Llanelly.

Mr. George Astle, F.S.A.A., has become a member of the Leeds City Council.

Mr. J. Stewart Seggie, C.A., Incorporated Accountant, has resumed public practice in partnership with Mr. Fred W. Campbell, C.A. They will practise at 43, Melville Street, Edinburgh, under the style of F. W. Campbell & Stewart Seggie.

Mr. Sidney Wilson, Incorporated Accountant, has commenced public practice at 153, Church Street, Blackpool.

SCOTTISH NOTES

The Late Mr. W. D. Fisher, F.S.A.A., Glasgow

We regret to announce the death of Mr. W. D. Fisher, F.S.A.A., Glasgow, senior partner of the firm of Messrs. Archd. Sliman & Fisher, Incorporated Accountants, Glasgow, which took place very suddenly on October 24. Mr. Fisher became a member of the Society in 1907 and took a lively interest in the Scottish Branch, of which he was an hon. auditor at the time of his death. He was a Burns enthusiast and was in request for orations on the Immortal Memory of the Poet. He was 76 years of age

Excess Profits Tax

A suggestion has been made by the Taxation Committee of the Glasgow Chamber of Commerce that industrial companies be allowed to divide the 100 per cent. tax into two parts, the first part payable outright in cash to the Exchequer and the remainder treated as a compulsory loan to the State without interest and repayable at the end of the war. This loan would, in effect, be a reserve fund for the company.

Kilmarnock's War-Time Report

Kilmarnock's energetic Town Chamberlain, Mr. James A. Scott, F.S.A.A., has excelled himself in his War-time Civic and Financial Report of the Burgh for 1940, to which is added a supplement dealing with Civil Defence. In addition to photographs of the Provost, Magistrates and Convenors of Committees, in which one Incorporated Accountant, Councillor James C. McMurray, F.S.A.A., appears, there are full accounts of A.R.P. and other war-time services, with photos of the principal officers, which is an excellent way of letting the ratepayers know to whom to apply in times of air-raids or other war-time troubles. To enliven the, to most people, uninteresting collection of municipal statistics, there are humorous sketches and, with true Scottish thrift, nine pages of advertisements should help to pay for the cost of printing the report.

OBITUARY

SYDNEY EDWIN SMITH

We regret to announce the death on October 27 of Mr. Sydney E. Smith, O.B.E., F.S.A.A., senior partner of Messrs. Sydney E. Smith, Blyth & Co., Incorporated Accountants, London and Folkestone. Mr. Smith was 56 years of age. He commenced his professional career in 1903 and became a member of the Society of Incorporated Accountants in January, 1915, after being awarded the First Certificate of Merit in the Final Examination. In the following year he left the employment of Messrs. Franklin, Wild & Co., in whose office he had received his training, to become a partner in Messrs. Hoale, Smith & Co., later Hoale, Smith & Field. The firm of Sydney E. Smith, Blyth & Co., was formed in 1939. Mr. Smith received the honour of O.B.E. in 1918, in recognition of his work at the Ministry of Munitions. He was appointed Assistant Director of Finance to the Ministry in 1916, and later Assistant Controller of Accounts, and was a member of the Accounts Board and of the Control of Materials Committee. He was subsequently appointed to reorganise the Supply, Stores and Accounts Departments. During the present war he had acted as Inspector and Supervisor for the Board of Trade in connection with the Trading with the Enemy Act, and as a director nominated by the Custodian of Enemy Property.

S. P. McCALLUM

Incorporated Accountants who were present at the Course given at New College, Oxford, in 1938, will learn with much regret of the death at a comparatively early age of Dr. S. P. McCallum, M.A., D.Phil., who at that time was the Junior Bursar of the College, and who extended his cordial co-operation in making the necessary arrangements for the Course. Dr. McCallum first came to New College from New Zealand as a Rhodes Scholar and was elected a Fellow in 1927.

REMOVALS

Messrs. Stanley F. Stephens & Co., Incorporated Accountants, announce a change of address to 1, Laurence Pountney Hill, Cannon Street, London, E.C.4.

Mr. W. G. Milton, Incorporated Accountant, advises that he has transferred his offices to Wayletts, West End Lane, Pinner, Middlesex.

Messrs. Westlake, White & Co., Incorporated Accountants, formerly at 22, Portland Street, are practising at present from 31, Kellett Road (off Hill Lane), Southampton.

Messrs. Walter Harrison & Co., Incorporated Accountants, have removed their offices to Manor Buildings, 2/4, Manor Row, Bradford.

Messrs. Dunstan Adams & Lawrie, Incorporated Accountants, Nairobi, advise a change of address to Whiteaways Buildings, Delamere Avenue.

EXAMINATION RESULTS IN SOUTH AFRICA

JULY-AUGUST, 1940

Passed in Final

Alphabetical Order

WEST, ALFRED HERMAN RICHARD, Clerk to George Mackeurtan, Son & Crosoer, Stuttafords Buildings, Durban.

WILLIAMS, HAROLD EDWIN, Clerk to Charles S. Freake & Co., East London.

(7 candidates failed to satisfy the Examiners.)

IN PARLIAMENT

Dividends (Income Tax Deductions)

Sir I. Albery asked the Chancellor of the Exchequer whether he is aware that for the current quarter some dividends on gilt-edged securities are being paid less an Income Tax deduction of 10s. 6d. in the £ which inflicts real hardship on small investors who are not liable to such a heavy rate of taxation; and what instructions have been given to facilitate an early reclaim and repayment of the tax over-deducted?

Sir K. Wood: The deductions in question are made in accordance with the provisions of the Fifth Schedule to the Finance (No. 2) Act, 1940, which prescribes the procedure by which insufficient deductions of tax from payments made earlier in the present year are made good so far as possible by an increased deduction from the next subsequent payment. With regard to the latter part of the question, it is not necessary for a person whose income entitles him to relief from Income Tax by way of repayment to wait until the end of the year before making any claim. A claim for a repayment on account may be made as soon as it can be shown that some repayment for the year will be due, and it is part of the standing instructions to officers of the Inland Revenue Department that such claims shall be dealt with promptly.

Canteen Expenses (Income Tax)

Mr. Hammersley asked the Chancellor of the Exchequer to what extent expenses incurred in the provision of canteens and canteen equipment are allowable as trading expenses for Income Tax purposes?

Sir K. Wood: All revenue expenses incurred by a trader in the maintenance of canteens for the use of his employees are admissible as a deduction in computing his trading profits for taxation purposes. Where capital expenditure has been incurred by reason of the war in the provision of canteens it would rank for relief from Excess Profits Tax under the provisions of Rule 3 of Part I of 7th Schedule, Finance (No. 2) Act, 1939, and the question of giving a corresponding relief for the purposes of Income Tax is at present under consideration.

Evacuated Property (Income Tax)

Major Milner asked the Chancellor of the Exchequer whether he is aware, notwithstanding that owner-occupiers are forbidden access to their houses within a protected area, Schedule A tax and rates are still being demanded; and whether he will give instructions that, under such circumstances, they be not levied until beneficial occupation is possible?

Sir K. Wood: Except where the evacuation is for a short period by reason of some purely temporary local risk, relief from Income Tax Schedule A will be given as from the date of evacuation in cases where an owner-occupier is required by the competent authority to evacuate his property more or less permanently. As regards rates, I understand that my right hon. Friend the Minister of Health has no power to issue instructions to rating authorities on this matter, but it would appear that in cases of the kind referred to the occupier, being legally deprived of access to the premises, would not during that period be liable for rates.